



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 11/25/03

AGENDA ITEM 6

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Administrative Use Permit/Site Plan Review No. PL-2002-0268 and an Exception to the Off-Street Parking Regulations - Crossway Church (Applicant) - Request to Allow a Church at 21353 and 21311 Foothill Boulevard in a General Commercial (CG) District, and to Allow Required Parking to be Shared Between Two Adjacent Parcels

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution, finding that the project is categorically exempt from CEQA review, and upholding the Planning Director's decision to deny the application.

DISCUSSION:

The City Council may request the review of any application, and this item appears on the agenda as a result of Councilmember Ward calling it up.

An application was made to operate a church in a former furniture store at 21315 Foothill Boulevard, to utilize the building on the adjacent parcel to the north (21311 Foothill) for Bible study and a Sunday school, and to allow shared parking between the proposed church site and the adjacent parcel. The applicant indicated that the church members would also be using the parking associated with the medical facility across the street at 1320 Apple Avenue, which is outside the City limits and under the jurisdiction of Alameda County. In 2002, Alameda County granted a conditional use permit for a five-year period to allow the church to use the parking lot at the medical facility. As such, after the five-year period, the church would be required to secure subsequent approvals of use permit applications for the church to be able to continue using that parking lot.

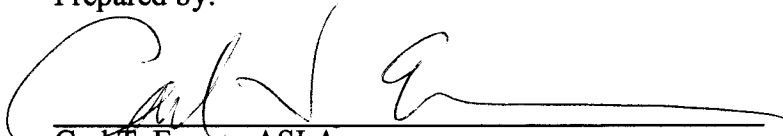
On July 23, 2003, the Planning Director denied the Administrative Use Permit. The Planning Director's denial was based on the significant intensification of the use of the building coupled with inadequate on-site parking and the uncertainty involved with the proposed parking arrangements on the adjacent and remote parking lots. The church indicates that it has 240 attendees.

The church appealed the Planning Director's decision on July 30, 2003. The appellant indicated that the commercial use of the property is limited, that the parking demand for a church is less than for other commercial entities that could occupy the building, that the peak hours for church-related parking do not coincide with those of the area, that the proposed physical improvements meet the City's design standards, and that a church elder purchased the property containing the medical facilities to lessen the uncertainty of the shared parking. The Planning Commission heard the appeal on September 11, 2003, at which time the Planning Director presented a recommendation for denial. The Commission directed staff to return with findings and conditions for approval.

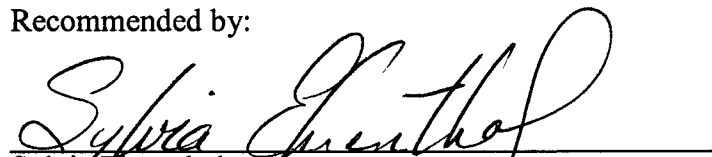
On October 9, 2003, the Planning Commission approved, by a vote of 5:1 (1 absent), the appellant's request to locate a church in the former furniture store. The Planning Commissioners determined that the church made every effort to secure adequate parking and that use of the furniture store building for other commercial uses would be very limited.

In staff's opinion, in spite of the elder's purchase of the property containing the medical facilities, the availability of the off-site parking remains tentative, as the church must apply for a use permit from Alameda County after five years. And, although in the early stages some consideration was given to approval of the church for a time period coincident with the guaranteed availability of off-site parking, this approach was considered unfeasible due to the substantial physical improvements to the buildings and land involved. While staff agrees that the proposed physical changes to the structures would contribute to an attractive streetscape, which may not be required for another primary use, the property has the potential to accommodate retail establishments and services and/or repair establishments; the availability of parking would determine the type of uses allowed there.

Prepared by:


Carl T. Emura, ASLA
Associate Planner

Recommended by:


Sylvia Ehrental
Director of Community and Economic Development

Approved by:


Jesús Armas, City Manager

Attachments: Exhibit A. Aerial Photo
Exhibit B. Findings for Denial
Exhibit C. Planning Commission Staff Report and Minutes, dated September 11, 2003
Exhibit D. Planning Commission Staff Report and Minutes, dated October 9, 2003
Exhibit E. Letter of Support, dated Oct. 24, 2003
Plans
Draft Resolution

11/20/03

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

Findings of Denial
Administrative Use Permit/Site Plan Review Application No. 2002-0268
Crossway Church - Applicant
Request to Convert a Former Furniture Store to a Church,
to Remodel Two Buildings,
and for Joint Use of a Parking Lot
21353 and 21311 Foothill Boulevard

- A. That the proposed church is not desirable for the public convenience or welfare due to the uncertainty of the availability of parking associated with the parking demands of the church;
- B. That the proposed church will impair the character and integrity of the General Commercial zoning district and surrounding area due to the uncertainty of the availability of parking associated with the demands of the church;
- C. That the proposed church will be detrimental to the public health, safety, or general welfare due to the uncertainty of the availability of parking associated with the demands of the church; and
- D. The proposed church is incompatible with the City of Hayward Off-Street Parking Regulations related to off-site parking in that there is no guarantee that parking will be available on a long-term basis.

PUBLIC HEARINGS

- ✓ 1. **Appeal of Denial by Planning Director of Administrative Use Permit and Site Plan Review Application No. PL-2002-0268 and an Exception to the Off-Street Parking Regulations - Crossway Church (Applicant) - Request to Allow a Church at 21353 Foothill Boulevard and to Modify the Exterior Design of the Buildings at 21353 and 21311 Foothill Boulevard, and to Allow Required Parking to be Shared Between Two Adjacent Parcels**

Associate Planner Emura explained the denial by the Planning Director of the Administrative Use Permit as not having enough permanent parking associated with the plan to allow a church of this size. He noted that the three parcels under consideration have different owners and are within two different jurisdictions, both the City of Hayward and the County of Alameda. He described the parking plans proposed by the Church. He then explained the limited alternatives used based on the existing parking.

Commissioner Thnay said he noticed that the lease for the off-site is for 10-years but the County agreed to only a five-year conditional permit for parking on the site. He asked why they did not agree to the 10 years.

Associate Planner Emura said he thought the County might only feel comfortable in granting the lease for this length of time. The County staff planner indicated that if conditions remain the same at the end of the five years, the County would be likely to approve a further permit for five more years.

Commissioner Halliday asked what other uses might be applicable to this property and about the retail parking in the area.

Associate Planner Emura suggested that a new furniture store might not meet the parking requirements of a new furniture store, but since it is an existing use, it would not need to meet new standards. Other retail or office use would have to meet current parking requirements similar to those of the Church.

Planning Manager Anderly explained that primarily an appliance or plumbing type of use that would be applicable.

Chairperson Zermeno asked whether other churches have received parking exceptions.

Planning Manager Anderly said a variance was granted to another church on Kay and Calaroga.

Commissioner Sacks said she was having problems with the two separate ownerships dealing with two separate government entities.



Associate Planner Emura indicated that the church has lease agreements with the owner on the corner who is also an elder of the church. He has purchased the property across the street as well.

Commissioner Bogue asked about the church on Kay and Calaroga, which has now secured permanent rights to the parking property.

Planning Manager Anderly agreed that they now have permanent parking, but they did not at the time the permit was granted.

Commissioner McKillop asked further about the property and the relationship between the owner, the lease and the ownership.

The public hearing opened at 7:50 p.m.

Ben Tipton explained that the owner of the property was willing to grant an irrevocable covenant to the church. He explained that the off-site as well as on-site parking would be met with this covenant, which makes the approvals merely ministerial. The church feels as though they have met their obligation for off-site parking. He answered questions from commissioners and introduced Mr. Lee to make a further presentation.

Commissioner Halliday asked whether the parking across the street at the medical building was only in use during the day and whether there were any activities at the church during the weekdays for which parking in this lot would be necessary.

Mr. Tipton explained that the covenant would be specific enough to use the lot only during off-periods.

Commissioner Halliday asked staff whether parking was needed to be available on weekends and not weekdays.

Associate Planner Emura agreed that the parking ordinance supports this kind of use. The irrevocable covenant could include allowing the use of the parking lot upon approval of the owner of the parking lot.

Planning Manager Anderly explained that there is a requirement to have some parking on site at all times, however, it does allow for exceptions. Churches are exempted in some ways.

David Lee, member of the church, presented a video of the proposed changes to the building. He explained that the Church has no plans for uses during the day times. He described the present location and the differences the Church will make to the site. He noted that the gate is already there but they are setting it back somewhat.

Commissioner McKillop asked about the classrooms on the site.

Mr. Lee explained they are not planning to have a school there. There will be Sunday classes only.

Kay Ku, a founding member of the Church, explained that before she purchased the medical building for further parking for the church, they were informed that there would be no problem with either zoning or the permit. She noted that it has been two years. They thought they were going in the same direction with the City staff, until they received the denial letter. She said she was shocked because the issue is the parking lot, explaining that members have already been using the parking lot at this site for 10 years. When it went up for sale, they were worried about not being able to use this lot so she and her family purchased the property and are the present owners of the medical building now. She noted that there are 52 parking stalls there. Before buying the lot, they came to the City. She was assured this would meet the off-site parking requirement for the Church. Then she received the notice to go to the County to get formal approval to use the parking lot. Although they had been using the lot for 11 years, City Staff said they needed formal approval. As to why the County granted the permit for only five years, they had no answer. They were assured that after 5-years they might get a renewal so they are not concerned. City staff was concerned about the 5-years term. She said that, as owners, they would commit permanently to allow the church to use the parking lot.

Minson Ahn, senior pastor at the church, introduced himself and explained that this is a Presbyterian Church focusing on youth ministry. They are also a giving church. Nearly half their budget is spent on giving. Once a month, they visit the open door mission for the homeless, to provide food and money. Although their membership is primarily Korean, they will include everyone around them. The Crossway Church will benefit everyone.

Commissioner Halliday asked about the number attending each service.

Rev. Ahn said they usually have 200 adults for both services. He explained the youth services at the church as well at the facility. He thought 50 additional parking spaces would be adequate since they have different services at different times.

Commissioner Halliday asked whether, if something were to happen to break that relationship for parking, so you cannot park at the medical facility.

Rev. Ahn explained that the elder who bought it is holding it so that at a future date, the Church will be able to buy it. He noted that the Church does not use it for the parking during the day.

The public hearing was closed at 8:06 p.m.

Commissioner Thnay asked staff about the parking and the offer for the revocable covenant.

Assistant City Attorney Conneely said the irrevocable covenant is a contractual one between the property owners. The main factor for consideration is really the County's conditional permit.



Commissioner McKillop asked whether the County's conditional use permit was for parking for the church or for the medical offices.

Commissioner Fraas asked whether there had been any neighborhood comments or concerns expressed.

Associate Planner Emura said there had been no comments nor had the County received any comments. He added that one of the doctors at the medical office called in support of the use.

Commissioner Sacks asked about the worse case, if staff comes back with requirements of approval and if County decides it wants something else.

Assistant City Attorney Conneely suggested that one approach might be to condition the use on the continued availability of the adjacent parking lot. If staff expressly made a condition that the applicant needs parking at this site and if the County decides not to continue the use permit, then the City of Hayward could take action to revoke the use permit for the church. The question then becomes, what happens in a court proceeding.

Commissioner McKillop asked whether the applicant is willing to take that risk and whether this has this been addressed with staff.

Associate Planner Emura said he has told them there are no guarantees. The applicant continued to forge forward. He suggested that the Commission would need to address the question to the applicant.

Commissioner Thnay indicated that there are no 100 percent certainties, however it looks like staff's concern will be addressed. He noted that the Church provides a service to the City of Hayward, particularly with their aid of The Open Door Mission, which is a good thing. They also bring customers to the restaurants on A Street on Sundays.

Commissioner Halliday said she agreed. She thought the applicant had met the concern of staff, adding that nothing is risk free. She then moved to uphold the appeal and request staff to come back with findings and conditions of approval, which will include that adequate parking, be maintained.

Assistant City Attorney Conneely commented that there has been no environmental review at this point. As a result, the motion has to be to direct staff for CEQA review.

Commissioner Halliday then restated her motion, seconded by Commissioner Thnay, to note that the intent of the Planning Commission is to uphold the appeal, and requested that staff come back with the appropriate CEQA review, findings and conditions which will include that

adequate parking be maintained off-site as outlined in the agreement the Church has with the adjacent property owner.

Commissioner Halliday commented that this is a good use for the property. She also is concerned that there are not that many other uses that also would not need additional parking.

Commissioner Sacks pointed out that they were also talking about the willingness to grant the irrevocable parking adding that this needs to be included in the conditions.

Commissioner Bogue expressed concern regarding the County and their intent for renewal every five years, as well as irrevocable parking agreement. He asked what if it all falls through. He noted that he thinks the City is taking on too much risk at this point. He said the County should take on the more risk. He said he needed further information on the risk to the City of Hayward; as a result he would not be in support of the motion.

Commissioner McKillop explained that it is the intent of the church to purchase this property, and agreed there was still much uncertainty. She said she would support the motion.

Commissioner Halliday asked for further information about the County use permit.

Planning Manager Anderly indicated that the County approved the Medical offices and the appurtenant parking. This arrangement for the conditional use permit was to allow an off-site property use for the parking lot, that specific use could be revoked or rather not renewed.

Chairperson Zermefio said he appreciated the church's improvement in the area. He liked the churches plans.

Commissioner Sacks said her instinct is to say no, but another part wants to see how this all works out. She said she would support the motion since it is not a final/final decision.

The motion passed, 6:1, with Commissioner Bogue voting "no."

~~2 Zone Change No. PL-2002-0722 and Vesting Tentative Tract Map 7435/PL-2002-0726 - Paul Martin for Hayward Commons, LLC (Applicant) / Evelyn Lutes (Owner) - Request to Change the Zoning From a Single-Family Residential (RSB6) District to a Planned Development (PD) District and Subdivide 1.1 Acres to Build 15 Homes - The Project is Located at 26965 Hayward Boulevard, near Spencer Lane~~

~~Commissioner Fraas recused herself because of a conflict.~~

~~Associate Planner Pearson described the property and the proposed Planned Development District. The Neighborhood plan encourages this type of density. However, neighbors have raised issues of density, traffic, views and privacy. In response, staff feels many of these concerns have been answered through the buildings' design, which will be lower, and smaller, and with the orientation of the buildings. Density is appropriate and housing is needed near the university. Staff believes this will be a nice transition from nearby homes to the condos next to it. Staff recommends approval.~~



CITY OF HAYWARD AGENDA REPORT

Meeting Date 9/11/03
Agenda Item 1

TO: Planning Commission

FROM: Dyana Anderly, AICP, Planning Manager

SUBJECT: Appeal of Denial by Planning Director of Administrative Use Permit/Site Plan Review Application No. PL-2002-0268 and an Exception to the Off-Street Parking Regulations - Crossway Church (Applicant) - Request to Allow a Church at 21353 Foothill Boulevard and to Modify the Exterior Design of the Buildings at 21353 and 21311 Foothill Boulevard in a General Commercial (CG) District, and to Allow Required Parking to be Shared Between Two Adjacent Parcels

RECOMMENDATION:

It is recommended that the Planning Commission find the project categorically exempt from CEQA review and uphold the Planning Director's denial action, subject to the attached findings.

DISCUSSION:

The applicant is requesting to locate a church in a former furniture store at 21353 Foothill Boulevard, approximately 118 feet south of Apple Street. The project includes the conversion of retail display and storage areas into a sanctuary to accommodate 256 worshipers, 9 classrooms, 5 offices, a nursery, and ancillary rooms. The parcel contains space for seven parking stalls.

The adjacent parcel to the north (21211 Foothill), which is under separate ownership, is currently developed with a church. The owner of this parcel intends to convert the church to an assembly area for Bible study purposes and for a Sunday school. This building will function as an annex to the proposed church building at 21353 Foothill. This parcel contains space to accommodate 11 parking stalls.

The administrative use permit application includes a request to remodel the exteriors of both structures, landscape both parcels, and re-stripe the parking lots for joint use. On-street parking to accommodate approximately three vehicles is available along the Apple Street frontage. There is no bus stop in front of the site.

The proposed parking on the combined parcels totals 18 stalls. In addition, 80 parking stalls that are associated with the office buildings across Apple Street are currently available to church members on Sundays, holidays and evenings. The 80 parking stalls are in Alameda County, outside the City's jurisdiction. The City's Off-Street Parking Regulations allow for required parking to be met by providing nearby off-site parking, subject to the approval of an administrative use permit. Last year Alameda County granted a use permit to allow parking for the church to be shared with the offices, but the permit was granted for only a five-year period.

A church in the General Commercial District requires approval of an Administrative Use Permit, and on July 23, 2003, the Planning Director denied the Administrative Use Permit application for Crossway Church. The denial action was based on the significant intensification of the use of the building coupled with inadequate on-site parking and the uncertainty involved with the proposed parking arrangements on the adjacent and remote parking lots. (There would be no irrevocable covenants to guarantee the availability of off-site parking in perpetuity.) While it is possible to grant an administrative use permit for the church for a time period coincident with the guaranteed availability of off-site parking, limiting the church to a five-year period would be unrealistic given the substantial physical improvements to the buildings and land involved.

On July 30, 2003, the applicant appealed the Planning Director's decision. In the appeal letter, attached as Exhibit B, the appellant indicates that there would be adequate parking available to members of the church, that the peak hours for church-related parking do not coincide with those of the area, that the proposed physical improvements meet the City's design standards, and that the parking demand for a church is less than for other commercial entities that could occupy the building.

The City of Hayward's Off-Street Parking Regulations require an *additional* 42 parking stalls for the proposed church, and there is no space on the property to accommodate additional parking stalls. The Off-Street Parking Regulations state,

At the time a new use is established in an existing building, where a major change of use or expansion in the existing use is involved for any lot structure, or building, except in the Central Parking District, additional parking shall be provided for the new use based on the difference between the parking requirements for the new use [51] as set forth in this article and the parking requirements for the prior use [9]. For purposes of these requirements, 'major change of use' shall mean a change of use that would increase the number of parking spaces or loading berths required by at least 25 percent or by at least 10 parking spaces, whichever is greater. [Numbers in brackets added by staff.]

The parking requirement for the proposed church is 42 parking stalls in addition to the 9 stalls existing on the parcel. If another furniture store (or similar use) were to reoccupy the building, no additional parking would be required. If an office building were to occupy the building, 46 parking stalls would be required; and if a retail establishment characterized by hand-carried merchandise were to occupy the building, 42 additional parking stalls would be required.

In the event of approval of a use permit, such conditions may be imposed as may be reasonably necessary to assure that the use will occur in maximum harmony with the area. These conditions may include a requirement for additional parking over and above the 42 spaces required by the Off-Street Parking Regulations, which is reasonable given the capacity of the church and the ancillary building.

In August 2002, Alameda County approved a use permit to allow the church to use a parking lot on the north side of Apple Street for a 5-year period; and in June 2003, the property owner of the adjacent corner parcel signed a 10-year agreement to allow joint parking. Pedestrians traveling

from the remote lot to the church would have the benefit of sidewalks and a signalized intersection. However, it was due to the uncertainty and the lack of a guarantee associated with these parking arrangements that the Planning Director denied the administrative use permit.

Environmental Review:

Environmental review is not required when a project is denied. If the Planning Commission were to determine that approval of the church would be appropriate, staff should be directed to perform appropriate environmental review of the project, which would include a finding that there is adequate parking available to church members.

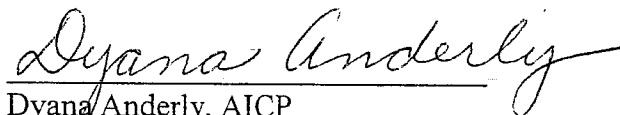
Conclusion:

If the Planning Commission is supportive of the administrative use permit, staff should be directed to bring back the project with an analysis of environmental impacts, the site plan review aspects of the application, and related findings and conditions of approval. If the Planning Commission upholds the Planning Director's denial action, the appellant could appeal the Planning Commission's decision to the City Council.

Public Notice:

On August 28, 2003, a Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the former members of the North Hayward Neighborhood Task Force. No responses were received from the notice.

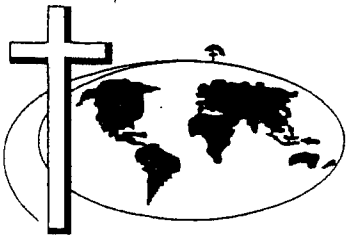
Prepared by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Appeal Letter
- C. Findings for Denial of the Administrative Use Permit Plans



미주한인예수교 장로회

크로스웨이 교회 *Crossway Church*

21313 Foothill Blvd. • Hayward, CA 94541 • 담임목사 : 안민성

(510) 481-2490 • (510) 581-5514 • 사택 (510) 888-9629

Date: July 30, 2003

City Of Hayward
Director of Planning Department
777 'B' Street,
Hayward, CA. 94541

RECEIVED

AUG 04 2003

PLANNING DIVISION

RE: Administrative Use Permit # PL-2002-0268
21353 Foothill Boulevard.

Dear Mr. Emura,

Crossway Church is in receipt of your letter dated July 23rd, 2003, and noted the contents respectively.

The church highly appreciates all the professional help you have given to us to date. We are saddened to hear that after all the efforts we put into the project to enhance and meet the city's requirements, the Director of Planning has denied our application on the grounds of not being able to ensure long-term offsite parking under the authority of another jurisdiction.

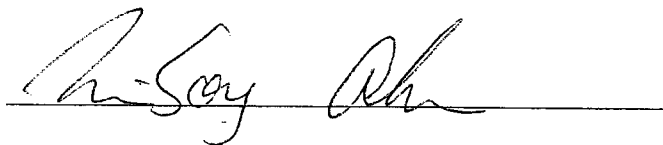
We respectfully would like to inform you of our decision to appeal the Planning Directors administrative denial of our application to the Planning Commission, for the following reasons;

- a. Additional offsite parking for the church has been approved by the County for a term of 5 years and upon the expiration of the term, an additional 5 year term will be granted by the County. It is the County's by-law that additional terms can be extended upon the expiration of the first term i.e. every 5 years.
- b. The main entrance of the Church is located at 310'-3" along a traversable pedestrian route from the farthest offsite parking space as required by the code (SEC.10-2.402). Also the offsite parking facility is located on Apple Street which is a Secondary street in comparison to Foothill Blvd which is the main thoroughfare.
- c. Traffic will be less impacted, since the facility's usage is during **NON-PEAK** hours.
- d. The location of the offsite parking area including the building structure is owned by the Mr. Jay H. Ku, who is the Elder of the church. One of the reasons Mr. Jay H. Ku purchased the property where the offsite parking is located, was to utilize the parking during NON-PEAK hours by the church Congregation.

- e. A lease has been signed between Crossway Church and Mr. Jay H. Ku for a term of 10 (ten) years for the utilization of the offsite parking structure by the church and an option to be agreed for a further period to be determined if needed.
- f. Crossway Presbyterian Church has diligently met ALL the façade and landscaping improvements required by the planning department for improving entry way into the city.
- g. If other primary businesses were to occupy this building in question, improving the façade would not be required. Secondly, instead of Church use, if a primary business were to occupy the space, the planning department would require 66 parking stalls instead of 51 parking stalls for Church assembly.(SEC. 10-2.230 and SEC. 10-2.340)

Crossway Church respectfully submits that if the use of the facility for assembly purposes is approved it will serve its congregation and property improvement will also enhance and beautify the city and improve the traffic along its busy thoroughfare.

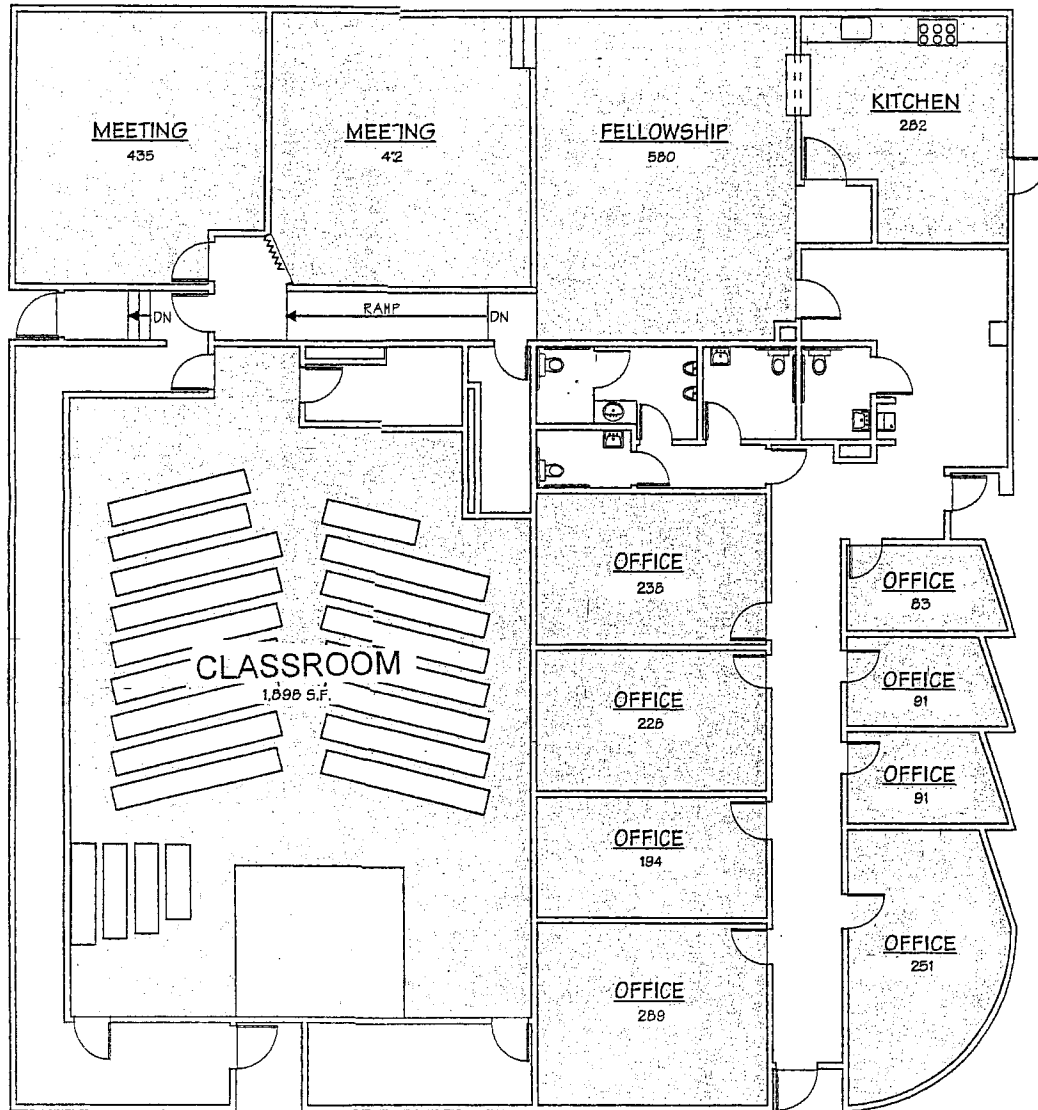
Respectfully,

A handwritten signature in cursive script, appearing to read "Min Song Ahn", is written over a horizontal line.

Min Song Ahn
Senior Pastor

Findings of Denial
Administrative Use Permit/Site Plan Review Application No. 2002-0268
Crossway Church - Applicant
Request to Convert a Former Furniture Store to a Church,
to Remodel Two Buildings,
and for Joint Use of a Parking Lot
21353 and 21211 Foothill Boulevard

- A. That the proposed church is not desirable for the public convenience or welfare due to the uncertainty of the availability of parking associated with the parking demands of the church;
- B. That the proposed church will impair the character and integrity of the General Commercial zoning district and surrounding area due to the uncertainty of the availability of parking associated with the demands of the church;
- C. That the proposed church will be detrimental to the public health, safety, or general welfare due to the uncertainty of the availability of parking associated with the demands of the church; and
- D. The proposed church is incompatible with the City of Hayward Off-Street Parking Regulations related to off-site parking in that there is no guarantee that parking will be available on a long-term basis.

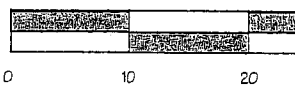
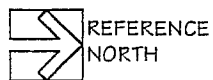


APPLE ST

FOOTHILL BLVD.

FLOOR PLAN

APPROXIMATE FLOOR AREA: 6,743 SQ. FT.



MINUTES



**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD**
Council Chambers
Thursday, October 9, 2003, 7:30 P.M.
777 "B" Street, Hayward, CA 94541

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermeño, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bogue, McKillop, Sacks, Fraas, Halliday
CHAIRPERSON Zermeño
Absent: COMMISSIONER Thnay

Staff Members Present: Anderly, Bauman, Conneely, Emura, Looney, Patenaude

General Public Present: Approximately 17

PUBLIC COMMENT

No comments made.

AGENDA

1. **Appeal of Planning Director's Denial of Administrative Use Permit/Site Plan Review Application No. PL-2002-0268 – Crossway Church (Applicant/Owner)** - Request to Allow a Church, to Modify the Exterior Design of the Building and to Allow Off-Street Parking – The Property is Located at 21311 and 21353 Foothill Boulevard (Continued From 9/11/03)
2. **Site Plan Review No. PL-2003-0017 – Ali Feroz (Applicant/Owner)** – Construction of Second Single-Family Dwelling - The property is located at 22277 Pearce Street
3. **Administrative Use Permit No. PL-2003-0328 – Misako Hill for Cingular Wireless (Applicant) / Hugh and Jeff McClung (Owners)** – Request to Install a Light Pole Telecommunication Monopole to Replace an Existing Pole at Carlos Bee Boulevard and to Locate Equipment Cabinets on Site - The Project is Located at 24900 Mission Boulevard
4. **City of Hayward Revised Housing Element – Referred by Planning Director**

PUBLIC HEARINGS

1. **Appeal of Planning Director's Denial of Administrative Use Permit/Site Plan Review Application No. PL-2002-0268 – Crossway Church (Applicant/Owner)** - Request to Allow a Church, to Modify the Exterior Design of the Building and to Allow Off-Street Parking – The Property is Located at 21311 and 21353 Foothill Boulevard (Continued From 9/11/03)

Associate Planner Emura explained that staff was bringing the item back at the earlier request of the Commission.

The public hearing opened at 7:33 p.m.

David Lee thanked the Commission for their support and said the church would follow all of the conditions. He explained that he now would go to the Building Department.

The public hearing closed at 7:34 p.m.

Commissioner Halliday **moved**, seconded by Commissioner McKillop, to support the staff recommendation on the project. She added that she thought staff did a good job to satisfy the concerns previously expressed by members. She noted that the findings could show that this project was in the public interest because it proposed shared parking. She said she was happy to support it.

Commissioner Sacks amplified briefly on the shared parking recognizing that there is a risk. She noted that the conditions address as much as possible reducing the risk. It finally comes down to trusting the good faith of the people involved.

Chairperson Zermeño commented that it was a fine project.

The motion passed 5:1, with Commissioner Bogue voting "No" and Commissioner Thnay absent.

2. Site Plan Review No. PL-2003-0017 – Ali Feroz (Applicant/Owner) – Construction of Second Single-Family Dwelling - The property is located at 22277 Pearce Street

Principal Planner Patenaude described the proposed residence. He noted that staff would be asking for more detail on the design of the house when submitted. An issue with the project is that the design guidelines for the cottage limit a dwelling to a footprint of 900 sq feet and a total of 1,200 sq feet. He indicated that the architect is willing to shave off a foot, bringing each floor to below of the 900-sq feet. This would meet the intent of the Design Guidelines and also provide additional width for the driveway area. Staff recommended reduction of the home and approval for the conditions.

Commissioner Bogue questioned the access to the existing home now.

Principal Planner Patenaude explained that the present gate would be removed, as would the existing tubular steel fence. The conditions would include having white picket fencing.

Commissioner Halliday asked about the rules regarding the shared driveway.

Principal Planner Patenaude explained that each would have a separate drive and garage. Both homes would remain on one property.



CITY OF HAYWARD AGENDA REPORT

Meeting Date 10/9/03
Agenda Item 1

TO: Planning Commission

FROM: Carl T. Emura, Associate Planner

SUBJECT: Appeal of Planning Director's Denial of Administrative Use Permit/Site Plan Review Application No. PL-2002-0268 - Crossway Church (Applicant) - Request to Allow a Church, to Modify the Exterior Design of the Buildings and to Allow Off-Site Parking (Continued from 9/11/03)

The Property Is Located at 21311 and 21353 Foothill Boulevard in a General Commercial (CG) District

RECOMMENDATION:

Staff recommends denial of the project. Should the Planning Commission decide to approve the project, staff recommends that the Planning Commission find that the project is exempt from environmental review and approve the Administrative Use Permit/Site Plan Review subject to the attached findings and conditions of approval.

DISCUSSION:

On September 9, 2003, the Planning Commission conducted a public hearing to consider a request to locate a church in a former furniture store at 21315 Foothill Boulevard and utilize the building on the adjacent parcel (21311 Foothill) for Bible Study and a Sunday School. The two sites combined would contain 21 parking stalls where 51 parking stalls would be required. The applicant would also share parking with the medical facility across the street at 1320 Apple Avenue. The medical office has 52 parking spaces that would be available to the church on Sundays, Holidays, and Evenings only. The medical office is within the County of Alameda, and a conditional use permit was granted for use of the medical office parking lot by the church for a period of five years.

The Planning Commissioners determined that the Crossway Church had made every effort to secure adequate parking and that use of the former furniture store building for other commercial uses would be very limited. The Planning Commission, by a vote of 6-1, directed staff to prepare the necessary environmental documents and the findings and the conditions of approval in support of the project.

Crossway Church proposed to make substantial improvements to the façade of the two buildings. The applicant proposes to improve the façade of the church with modulated accent trim around the building, doorways and windows, and the parapet wall around the

building would be extended and enhanced. The rock on the façade of the adjacent building would be replaced with stucco and the building be painted to match the sanctuary. The parking lot would be landscaped and a 6-foot high decorative masonry wall would be provided along the west property line separating the parking lot from adjacent residences. Staff believes that the proposed architectural enhancements would significantly improve the site; however, design features could be further enhanced by additional accent trim around windows and over doorways of the northernmost structure to visually connect the two buildings. Also, other than a change of paint color, there should be an architectural element separating the upper portion of the structures from the lower portion. Further, the extended parapets on the church should be increased in depth to add richness to the structure. A decorative sign, such as individual brass letters with external or back-lit illumination would serve to both identify the facility and break up the otherwise stark appearance of the corner building. These suggestions have been incorporated as conditions of approval.

ENVIRONMENTAL REVIEW:

The project is exempt from environmental review as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15301 Existing Facilities.

PUBLIC NOTICE:

On September 29, 2003, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, and the North Hayward Neighborhood Task Force.

Prepared by:



Carl T. Emura ASLA
Associate Planner

Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Staff Report dated 9/11/03
- B. Planning Commission minutes dated 9/11/03
- C. Findings for Approval
- D. Conditions of Approval

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

FINDINGS FOR APPROVAL
Administrative Use Permit No. PI-2002-0268
Crossway Church (Applicant/Owner)

1. The proposed project is exempt from the provisions of California Environmental Quality Act pursuant to Section 15301 (Existing Facilities).
2. The proposed use is desirable for the public convenience or welfare in that it is a suitable use to occupy a commercial building that has limited commercial use due to its limited on-site parking space.
3. The proposed use will not impair the character and integrity of the zoning district and the surrounding area in that existing buildings will be enhanced with the addition of architectural details and additional landscaping will be added to the site.
4. The proposed use will not be detrimental to the public health, safety and general welfare in that it provides a religious experience desired by members of the community, and such use is generally expected to be located in a community. City services are adequate to meet the demands of the proposed use.
5. The proposed use is in harmony with applicable City policies in that the General Plan Policies & Strategies are supportive of uses that increase revenues to the City. The use is expected to attract patronage by persons outside of the City and they are expected to patronize local restaurants, gas stations and shopping centers.

Off-Site Parking

6. The proposed off-site parking is less than 500 feet from the main entrance of the church.
7. The proposed off-site parking has a useable pedestrian route along public streets.
8. The proposed off-site parking will not be adversely affected relative to parking in that the off-site parking lot is not used during the weekday evenings or on Sunday.
9. The proposed off-site parking will not create a traffic circulation that is detrimental to the health, safety, and welfare of residents residing or working in or adjacent to the parking in that the church facilities will be used during off peak hours.
10. The property owners of the proposed off-site parking, as conditioned, shall enter into a written, recorded agreement with the City, in a form satisfactory to the City Attorney and record a covenant between Crossway Church and the off-site property

owner for access to and use of the off-site parking facilities subject to City review and approval.

CONDITIONS FOR APPROVAL
Administrative Use Permit No. PI-2002-0268
Crossway Church (Applicant/Owner)

General

1. The proposed application (Administrative Use Permit/Site Plan Review Application No. PI-2002-0268) is to convert a former furniture store at 21315 Foothill Boulevard and adjacent parcel (21211 Foothill) to a religious facility and share parking with the medical facility across the street at 1320 Apple Avenue. The religious facility shall operate according to these conditions of approval and plans approved by the Planning Commission on October 9, 2003, labeled Exhibit "A". This approval is void one year after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official. Any modification to this permit shall require review and approval by the Planning Director.
2. The applicant shall record a covenant with the owner of 1320 Apple for use of the off-site parking facility.
3. The applicant shall maintain County of Alameda approval for use of the parking lot at 1320 Apple Avenue for a religious facility. Should the approval for the parking be terminated, this permit will also be terminated.
4. The applicant shall enter into a written, recorded agreement with the City, in a form satisfactory to the City Attorney, describing the off-site parking plan and including a guarantee that there will be no substantial alteration in the uses that will create a greater demand for parking, a recording of a covenant among properties for access to and use of the off-site parking facilities, a provision stating that the City may, upon a finding by the Planning Director that there has been a change in use, modify, amend, or unilaterally terminate the agreement.
5. If a building permit is issued for construction of improvements authorized by the site plan review approval, the site plan review approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the site plan review approval.
6. Prior to final inspection all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
7. If determined to be necessary for the protection of the public peace, safety and

general welfare, the City of Hayward may impose additional conditions or restrictions on this permit.

8. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
9. The applicant shall maintain in good repair all fencing, parking lot surfaces, landscaping, lighting, drainage facilities, project signs, etc. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence or the City has the right to enter and remove and charge the property owner for the clean-up.
10. No work shall be done in the street except for the replacement of the broken sidewalk along the property frontage.
11. Public telephones and vending machines shall not be installed outside the building.
12. No outdoor public address system may be used.
13. No outside storage of materials, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure as permitted by the fire code.
14. Violation of conditions is cause for revocation of permit after public hearing before the duly authorized review body.

Design

15. Exterior colors and finishes shall be approved by the Planning Director prior to issuance of a building permit.
16. Accent trim around windows and doorways shall be provided on the building located at 21211 Foothill Boulevard. The lower portion of the building shall be painted in the same manner as the Sanctuary with a lower accent band around the base of the building. Band shall be separated by an accent trim. The trim and accent band shall be approved by the Planning Director.
17. The accent trim over the top of the front and side sanctuary entries shall be thicker than the trim around the remaining perimeter of the sanctuary. The horizontal trim dividing the building shall be lowered to provide a transition between the upper and lower wall color. The trim shall be approved by the Planning Director.
18. The existing chain-link fencing on the west property line shall be replaced with a six foot high decorative masonry wall with a cap and pilasters. The masonry wall

shall be approved by the Planning Director prior to issuance of a building permit.

19. The existing 6-foot high metal picket fence and gate off of Mission Boulevard and Apple Avenue shall be relocated 10 feet from the front and side street property lines.
20. A trash enclosure shall be constructed at the location as depicted on the site plan. The trash enclosure shall be constructed of a decorative 6-foot-high masonry wall, which incorporates the architectural style, color and materials of the primary structure(s), with a solid and lockable, decorative metal access gate. The enclosure shall provide for an equivalent amount of space for recycling containers as for trash containers. The final design shall be approved by the Planning Director prior to the issuance of a building permit.

Signs

21. The monument sign for the furniture store along the east property line shall be removed.
22. All signs shall comply with the Sign Ordinance regulations for the General Commercial Zoning District. No changes may be made to any sign after installation unless previously approved by the Planning Director.
23. A decorative sign, such as individual brass letters with external or back-lit illumination shall be provided at the corner building at the intersection of Foothill Boulevard and Apple Avenue.

Parking and Driveways

24. Prior to connection of utilities, the parking lot pavement shall be repaired or replaced. Existing pavement shall be resurfaced to eliminate potholes and to provide a smooth, safe surface. The City Engineer shall determine the scope of improvements.

Lighting

25. Lighting within the parking storage area shall be provided and be maintained at a level which is adequate for illumination and protection of the premises. Lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast a direct light or glare upon adjacent properties or rights-of-way. A photometric lighting plan shall be submitted and approved by the Planning Director. Lighting Plan shall comply with the City's Security Ordinance.

Landscape

26. Prior to the issuance of the building permit, detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance. A Certificate of Substantial Completion and Irrigation Schedule shall be submitted by the project landscape architect prior to approval of occupancy.
27. Trees shall be preserved in accordance with the *Tree Preservation Ordinance*. Tree shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City pursuant to Municipal Code. A tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
28. One 15-gallon parking lot tree shall be provided for every six parking stalls.
29. A landscape buffer including shrubs and one 15-gallon tree for every 20 lineal feet of property line shall be planted along the west property line.
30. One 24" box street tree is required for every 20-40 lineal feet of frontage. Trees shall be planted to fill vacancies in the street pattern. Trees shall be planted according to the City Standard Detail SD-122.
31. Shrubs shall be incorporated in the planters along all street frontages. The type and spacing of shrubs shall create a continuous 30" high hedge within two years.
32. A 5 foot wide landscape planter shall be provided along the rear building addition.
33. Planter endcaps shall be provided at the ends of parking rows. Minimum interior width of endcaps and all other landscape islands shall be 5 feet.
34. All above ground utilities and mechanical equipment shall be screened from the street with shrubs. Adequate access shall be provided to read and service equipment.
35. A complete automatic sprinkler system with an automatic on/off mechanism shall be installed within all required landscape areas. An individual adjustable flood bubbler shall be provided at each tree.
36. Where any landscape area adjoins parking areas, a Class "B" Portland Cement concrete curb shall be constructed to a height of 6 inches above the finish pavement.

37. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30 percent die-back) shall be replaced within ten days of the inspection

Fire Department

38. The building shall have an automatic fire sprinkler system installed per NFPA 13 Standards.
39. A dedicated underground fire service line shall be installed per NFPA 24 Standards.
40. Fire Department Connection and Post Indicator Valve shall be installed in an approved location on the property and shall meet Fire Department Standards for installation.
41. A manual and automatic fire alarm system shall be installed throughout the building in conformance with the California Fire Code (CFC), Article 10 and NFPA 72 Standards.
42. Smoke detectors shall be installed within the "E" occupancy areas of the building and shall be tied into the buildings' fire alarm system.
43. An exterior alarm bell shall be installed on the fire sprinkler system riser.
44. Interior alarm notification device(s) shall be installed within the building and shall activate upon any fire sprinkler system water flow activity.
45. The buildings' fire sprinkler system and fire alarm system shall be supervised by an approved central station monitoring company.
46. Building construction shall meet the requirements of the California Building Code (CBC) and Article 25 of the California Fire Code (CFC) for an A2.1 occupancy.
47. Exiting for the building shall meet Chapter 10 of the CBC and Article 25 of the CFC.
48. An emergency evacuation plan shall be installed in locations throughout the building and shall be approved by the Fire Department.
49. Decorative materials within the building shall be flame treated and a Certificate of Flame Treatment shall be presented to the Fire Department prior to Certificate of Occupancy.
50. Portable fire extinguishers shall be installed on both floors of the building.

51. A building address shall be installed on the face of the building fronting Foothill Blvd. Minimum size of address numbers shall be 6 inches.
52. Separate fire permits are required for the installation of the fire sprinkler system, underground fire service line and the fire alarm system.
53. A Fire Department lock box shall be installed on the building in an approved location.

Mechanical/Utilities

54. All television or satellite reception antennas shall be completely screened from view by the proposed roof structure.

ARTHUR C. O'BRIEN, M.D. JG.
DIPLOMAT, AMERICAN BOARD OF FAMILY PRACTICE
FELLOW, AMERICAN ACADEMY OF FAMILY PRACTICE
21297 FOOTHILL BLVD., SUITE 101
HAYWARD, CA 94541
(510) 582-6942
FAX. (510) 582-3547

October 24, 2003

City of Hayward
777 B Street
Hayward, Ca. 94541

Dear Mr. Zermeno';

My neighbor at 21313 Foothill Blvd., The Crossway Church, petitioned the Planning Commission of Alameda County to build a very nice church in what was a rundown furniture store at 21353 Foothill Blvd.. It was approved almost unanimously by the planning commission. Now they are saying it is going to be subject to review.

I wish to state that this family of parishioners are a real asset to the neighborhood as well as the community. The church has a very active young peoples program as well as giving welfare support to the homeless and indigent.

The completion of the church as planned will improve the appearance of Foothill Blvd., by a long shot. As an owner of a neighboring medical building I fully support their project and the wonderful people that populate the church. It would be a disservice to our community to deny their right to build the HOUSE OF WORSHIP they desire. They have been at this location for ten years and wish to improve their facility.

Sincerely,



Arthur C. O'Brien, M.D.

ACO'B:skh

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
11/20/03

RESOLUTION DENYING USE PERMIT APPLICATION NO.
PL 2002-0268 BY CROSSWAY CHURCH (APPLICANT) AND
A REQUEST FOR AN EXCEPTION TO THE CITY'S
PARKING REGULATIONS TO ALLOW REQUIRED
PARKING TO BE SHARED BETWEEN TWO ADJACENT
PARCELS

WHEREAS, Use Permit Application No. PL 2002-0268, concerns a request by Crossway Church (Applicant) to allow a church at 21353 and 21311 Foothill Boulevard in a General Commercial (CG) District, and to allow required parking to be shared between two adjacent parcels; and

WHEREAS, on July 23, 2003, the Planning Director denied the Administrative Use Permit based on the significant intensification of the use of the building coupled with inadequate on-site parking and the uncertainty involved with the proposed parking arrangements on the adjacent and remote parking lots; the decision was appealed by the church on July 30, 2003; and

WHEREAS, the Planning Commission considered the matter at duly noticed hearings on July 30, 2003 and October 9, 2003, finding the project to be categorically exempt from CEQA review and approving the project, subject to the recommended conditions of approval; and

WHEREAS, in accordance with the provisions of the City's Zoning Ordinance, the matter was called up for review by a member of the City Council; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines as follows:

- a. The project is categorically exempt from environmental review, pursuant to the California Environmental Quality Act ("CEQA") as an existing facility.
- b. That the proposed church is not desirable for the public convenience or welfare due to the uncertainty of the availability of parking associated with the parking demands of the church;
- c. That the proposed church will impair the character and integrity of the General

Commercial zoning district and surrounding area due to the uncertainty of the availability of parking associated with the demands of the church;

- d. That the proposed church will be detrimental to the public health, safety, or general welfare due to the uncertainty of the availability of parking associated with the demands of the church; and
- e. The proposed church is incompatible with the City of Hayward Off-Street Parking Regulations related to off-site parking in that there is no guarantee that parking will be available on a long-term basis.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, based upon the aforementioned finding, Use Permit Application No. PL 2002-0268, regarding a request to allow a church at 21353 and 21311 Foothill Boulevard in a General Commercial (CG) District and for an exception to the City's parking regulations in order to allow the required parking to be shared between two adjacent parcels, is hereby denied.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2003

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward